

# EXHIBIT B

IN THE CIRCUIT COURT OF ELMORE COUNTY, ALABAMA

MICHAEL O. LUNSFORD, et al., )  
PLAINTIFFS, )  
vs. ) CASE NO: CV 2005-302 *5640*  
ARNBERG & ALLEN )  
CONSTRUCTION, LLC., )  
et al. )  
DEFENDANTS. )

ANSWER AND RESPONSE TO PLAINTIFFS' MORE DEFINITE STATEMENT

COME NOW the Defendants, Arnberg & Allen Construction, LLC; Jim Allen, individually; and Stephen D. Arnberg, individually, in the above-styled cause and provide the following answer to the Plaintiffs' Complaint.

1. For lack of information, the Defendants neither admit nor deny Paragraph One of Plaintiffs' Complaint.
2. For lack of information, the Defendants neither admit nor deny Paragraph Two of Plaintiffs' Complaint.
3. The Defendants deny the allegations as set forth in Paragraph Three of the Plaintiffs' Complaint, and demand strict proof thereof.
4. The Defendants deny the allegations as set forth in Paragraph Four of the Plaintiffs' Complaint, and demand strict proof thereof.
5. The Defendants deny the allegations as set forth in Paragraph Five of the Plaintiffs' Complaint, and demand strict proof thereof.
6. For lack of information, the Defendants neither admit nor deny Paragraph Six of Plaintiffs' Complaint.

7. For lack of information, the Defendants neither admit nor deny Paragraph Seven of Plaintiffs' Complaint.

8. For lack of information, the Defendants neither admit nor deny Paragraph Eight of Plaintiffs' Complaint.

9. For lack of information, the Defendants neither admit nor deny Paragraph Nine of Plaintiffs' Complaint.

10. Paragraph Ten of the Plaintiffs' Complaint contains multiple allegations and is drafted in a manner that is not in conformity with the Alabama Rules of Civil Procedure. Therefore, the Defendants object. Without waiving the objection, the Defendants deny the material allegations of the Plaintiffs' Complaint and demand strict proof thereof.

11. Paragraph Eleven of the Plaintiffs' Complaint contains multiple allegations and is drafted in a manner that is not in conformity with the Alabama Rules of Civil Procedure. Therefore, the Defendants object. Without waiving the objection, the Defendants deny the material allegations of the Plaintiffs' Complaint and demand strict proof thereof.

12. Paragraph Twelve of the Plaintiffs' Complaint contains multiple allegations and is drafted in a manner that is not in conformity with the Alabama Rules of Civil Procedure. Therefore, the Defendants object. Without waiving the objection, the Defendants deny the material allegations of the Plaintiffs' Complaint and demand strict proof thereof.

13. Paragraph Thirteen of the Plaintiffs' Complaint contains multiple allegations and is drafted in a manner that is not in conformity with the Alabama Rules of

Civil Procedure. Therefore, the Defendants object. Without waiving the objection, the Defendants deny the material allegations of the Plaintiffs' Complaint and demand strict proof thereof.

14. Paragraph Fourteen of the Plaintiffs' Complaint contains multiple allegations and is drafted in a manner that is not in conformity with the Alabama Rules of Civil Procedure. Therefore, the Defendants object. Without waiving the objection, the Defendants neither admit nor deny the material allegations of the Plaintiffs' Complaint and demand strict proof thereof.

15. Paragraph Fifteen of the Plaintiffs' Complaint contains multiple allegations and is drafted in a manner that is not in conformity with the Alabama Rules of Civil Procedure. Therefore, the Defendants object. Without waiving the objection, the Defendants neither admit nor deny the material allegations of the Plaintiffs' Complaint and demand strict proof thereof.

16. Paragraph Sixteen of the Plaintiffs' Complaint contains multiple allegations and is drafted in a manner that is not in conformity with the Alabama Rules of Civil Procedure. Therefore, the Defendants object. Without waiving the objection, the Defendants **neither admit nor deny** the material allegations of the Plaintiffs' Complaint and demand strict proof thereof.

17. Paragraph Seventeen of the Plaintiffs' Complaint contains multiple allegations and is drafted in a manner that is not in conformity with the Alabama Rules of Civil Procedure. Therefore, the Defendants object. Without waiving the objection, the Defendants deny the material allegations of the Plaintiffs' Complaint and demand strict proof thereof.

18. Paragraph Eighteen of the Plaintiffs' Complaint contains multiple allegations and is drafted in a manner that is not in conformity with the Alabama Rules of Civil Procedure. Therefore, the Defendants object. Without waiving the objection, the Defendants deny the material allegations of the Plaintiffs' complaint and demand strict proof thereof.

**Response To Plaintiffs' More Definite Statement**

In response to Plaintiffs' More Definite Statement, the Defendants say as follows:

Plaintiffs' More Definite Statement contains multiple allegations and is drafted in a manner that is not in conformity with the Alabama Rules of Civil Procedure. Therefore, the Defendants object. Without waiving the objection, the Defendants deny the material allegations of the Plaintiffs' Complaint and demand strict proof thereof.

**Affirmative Defenses**

1. The Plaintiffs' claim may give rise to the affirmative defense of accord and satisfaction.

2. The Plaintiffs' claim may give rise to the affirmative defense of assumption of risk.

3. The Plaintiffs' claim may give rise to the affirmative defense of contributory negligence.

4. The Plaintiffs' claim may give rise to the affirmative defense of failure of consideration.

5. The Plaintiffs' claim may give rise to the affirmative defense of payment.

6. The Plaintiffs' claim may give rise to the affirmative defense of release.

7. The Plaintiffs' claim may give rise to the affirmative defense of res judicata.
8. The Plaintiffs' claim may give rise to the affirmative defense of statute of frauds.
9. The Plaintiffs' claim may give rise to the affirmative defense of statute of limitations.
10. The Plaintiffs' claim may give rise to the affirmative defense of waiver.
11. The Plaintiffs' claim may give rise to the affirmative defense of acquiescence.
12. The Plaintiffs' claim may give rise to the affirmative defense of collateral estoppel or issue preclusion.
13. The Plaintiffs' claim may give rise to the affirmative defense of failure to give notice of breach.
14. The Plaintiffs' claim may give rise to the affirmative defense of in pari delicto.
15. The Plaintiffs' claim may give rise to the affirmative defense of lack of capacity to sue.
16. The Plaintiffs' claim may give rise to the affirmative defense of lack of cooperation.
17. The Plaintiffs' claim may give rise to the affirmative defense of mitigation of damages.
18. The Plaintiffs' claim may give rise to the affirmative defense of recoupment.

19. The Plaintiffs' claim may give rise to the affirmative defense of unconstitutionality of punitive damages.

20. The Plaintiffs' claim may give rise to the affirmative defense of willful concealment of facts.

21. The Plaintiffs' claim may give rise to the affirmative defense of absence of capacity.

22. The Plaintiffs' claim may give rise to the affirmative defense of failure to cooperate.

23. The Plaintiffs' claim may give rise to the affirmative defense of the defendants' good faith belief that its actions were lawful.

24. The Plaintiffs' claim may give rise to the affirmative defense of the Plaintiffs' lack of good faith.

25. The Plaintiffs' claim may give rise to the affirmative defense of setoff.

26. The Plaintiffs' claim may give rise to the affirmative defense of Act of God/Act of Nature.

27. The plaintiffs' claim may give rise to the affirmative defense of Lack of Causal Connection.

Respectfully submitted this the 8th day of November, 2005.



Steadman S. Shealy, Jr. (SHE023)  
Todd Derrick (DER006)

OF COUNSEL:

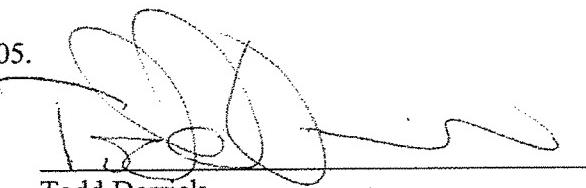
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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day mailed a copy of the foregoing Answer and Response to Plaintiffs' More Definite Statement, properly addressed and postage prepaid to the following:

Robert J. Russell, Jr., Esquire  
PARNELL & CRUM, P.A.  
Post Office Box 2189  
Montgomery, Alabama 36102-2189  
(334) 832-4200

This the 8th day of November, 2005.



Todd Derrick